IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION

APPEAL NO.847 OF 2006
In
NOTICE OF MOTION NO.3401 OF 2006
In
SUIT NO.2835 OF 2006

Sakar Glazed Tiles Private Limited : Appellant
(Orig.Defendant no.1)

V/s.

H & R Johnson (India) Ltd. & Ors. : Respondents
(No.1 Orig.Plaintiff,
Nos.2 and 3 Orig.Defendant
Nos.2 and 3)

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Mr.F.E. D'vitre, senior counsel, with Mr.Rahul Chitnis i/b. Ms K. Prabhu for the appellant.

Dr.Virendra Tulzapurkar, senior counsel, with Mr.H.W.Kane and Mr.Rahul Kadam i/b. Mr.H.W.Kane for respondent no.1.

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CORAM : R.M.LODHA & S.A.BOBDE,JJ.

DATE : DECEMBER 6, 2006.

P.C.

1. This appeal arises from an ad-interim order in the suit filed for infringement of the plaintiff's registered trade mark.

2. The plaintiff and the 1st defendant have agreed to settle their disputes raised in the suit in terms of the consent terms handed in, marked 'X' for identification purposes.

3. We perused the consent terms and are of the view that these are in the interests of the plaintiff and the 1st

defendant.

4. The senior counsel for the plaintiff (respondent no.1) submits that the plaintiff is not desirous of prosecuting its claim against the defendant nos.2 and 3.

5. We, accordingly, order that the suit shall stand decreed of between the plaintiff and the defendant no.1 in terms of the consent terms. The suit stands dismissed as against the defendant nos.2 and 3 as not pressed.

6. In view of the decree having been passed in the suit in terms of the consent terms between the plaintiff and the defendant no.1, the appeal does not survive and stands disposed of accordingly.

7. The plaintiff will be refunded the Court fee as per existing notification.

8. Disposal of the suit renders Notice of Motion no.3401 of 2006 infructuous.

R.M. LODHA, J.

S.A. BOBDE, J.